

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CARLOS HERNANDEZ, et al.,
Plaintiffs,
v.
PAUL D. GUGLIELMO, etc.,
Defendant.

2:09-cv-0830-LDG-GWF

ORDER

The court addresses possible confusion relating to the dispositive briefing in this matter. By order filed February 3, 2010, the court denied defendant's motion for summary judgment without prejudice to its refile after the close of discovery on March 8, 2010, the dispositive motion deadline on April 8, 2010 (#41). Defendant did not refile his motion for summary judgment; however, on April 22, 2010, the parties filed a joint status report in which they indicated that they were awaiting this court's decision on plaintiffs' motion for class certification before submitting a revised discovery plan and scheduling order (#38).

Pursuant to Fed. R. Civ. P. 23(c)(1), the court is given latitude to consider class certification "at an early practicable time." In this particular case, and as defendant suggested in his opposition to class certification, the ruling on summary judgment could render the motion for class certification moot, and the court determines that addressing the issues raised on summary judgment should precede consideration of class certification. This is especially manifest as plaintiffs have recently filed as new authority in support of their motion for class certification a summary judgment decision on the merits which brings the court's attention to a ruling on a

1 summary judgment ruling in a Fair Debt Collection Practices Act case (#44). Nevertheless, as
2 indicated in the status report, the parties anticipate further discovery and dispositive motion
3 practice after a ruling on class certification. Since discovery and dispositive motion practice shall
4 be completed before the class certification consideration,

5 THE COURT HEREBY ORDERS that plaintiffs' motion for class certification (#27) is
6 DENIED without prejudice to its reinstatement at plaintiffs' request after the close of any
7 discovery and after the ruling on dispositive motions.

8 THE COURT FURTHER ORDERS that the parties shall submit a revised discovery plan
9 and scheduling order within thirty (30) days of the filing of this order.

10 THE COURT FURTHER ORDERS that defendant's motion for continuance of time to file
11 response to the motion for class certification (#33) is DENIED as moot.

12 Dated this 23 day of September, 2010.

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14 Lloyd D. George
United States District Judge
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